

Council Report

Ward(s) affected: All wards

Report of Director of Resources

Author: Faye Gould, Senior Specialist Procurement

Tel: 01483 444120

Email: faye.gould@guildford.gov.uk

Lead Councillor responsible: Tim Anderson

Tel: 07710 328560

Email: tim.anderson@guildford.gov.uk

Date: 19 May 2021

Review of Procurement Procedure Rules

Executive Summary

The Council's expenditure on goods, works, and services is approximately £50 million per annum and the Procurement Strategy adopted by the Executive on 26 May 2020 provides a strategic approach to sourcing in order to demonstrate best value and meet the requirements of the Public Contract Regulations 2015.

A need was identified to update the Procurement Procedure Rules, which form part of the Council's Constitution, in line with the adoption of the Procurement Strategy and subsequent shift to strategic sourcing as the last substantial review of the Rules was in 2016 which was based on historic practices; the devolved procurement model.

Key changes as outlined in this report are necessary to the Procurement Procedure Rules in order to bring them in line with the current way of working, a summary of the changes is as follows:

- Update to threshold for procurement advice
- Defining the role of Corporate Procurement Board
- Update to Tendering thresholds
- Updated exemption grounds
- Specific inclusion of embedding Social Value
- Specific inclusion of adopting Modern Slavery
- Specific inclusion of Climate change considerations

By adopting the updated Procurement Procedure Rules, the Council will bring the Rules in line with current practices and commit to delivering a robust approach to Commissioning and Procurement. Compliance with the Public Contract Regulations 2015 will be achieved, significant savings realised, and commercial opportunity maximised.

The Council's Constitution will also be brought up to date which will mirror current working practices, removing any potential conflicts.

Recommendation to Selection Council

That the updated Procurement Procedure Rules, as set out in Appendix 1 to this report, be adopted.

Reason(s) for Recommendation:

The current Procurement Procedure Rules were last subject to a full review in 2016, there are therefore substantial changes and updates required in order to align with the Procurement Strategy adopted by the Executive on 26 May 2020.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

- 1.1 This report outlines the necessary changes to the Council's Procurement Procedure Rules (PPRs) which form part of the Council's Constitution.

2. Strategic Priorities

- 2.1 Procurement supports the Council's Strategic Framework, in particular the Innovation theme as it encourages sustainable and proportionate economic growth to help provide the prosperity and employment that people need.
- 2.2 Procurement and Commissioning is a highly innovative work area which utilises technology and new ways of working to improve value for money and efficiency in Council services.

3. Background

3.1 The Procurement Function

- 3.1.1 The Procurement function sits within Financial Services in the Resources Directorate following the implementation of Phase A of Future Guildford. The Procurement team are supported by Legal services colleagues who ensure compliance with the Public Contracts Regulations (PCR 2015) and Procurement Procedure Rules (PPRs) as well as providing contract and commercial legal advice.
- 3.1.2 The Council's annual spend on procuring goods, works, and services is approximately £50 million.

3.2 The Procurement Strategy

- 3.2.1 The Executive adopted the Procurement Strategy 2020-2023 on 26 May 2020. The Strategy serves to support the Council in delivering its strategic objectives and to ensure that, in the procurement of goods, works, and services, the very best value for money is obtained along with the required quality at the best price achievable. A significant modification as part of the Strategy was to update the threshold for engagement with the Procurement Team to seek procurement advice, which now stands at any expenditure over £1,500 requires advice.

- 3.2.2 The Strategy dictates that a Category Management approach is adopted, which consists of understanding spend data through the Council's Finance system Business World, by supplier, contract, category or period to be mapped and analysed. This information then forms part of the initial approach to Category management which is required in order to deliver a more strategic approach to sourcing.
- 3.2.3 Implementing category management techniques allow the Council to bring contracts similar in nature together into a single Procurement exercise and seek opportunities to collaborate and/or develop shared services with other public bodies which maintain or improve quality but at a lower overall price. Category Management also enables alignment with the market and thus more successful Tendering.
- 3.2.4 The introduction of Business World has also triggered all new supplier set up being subject to procurement approval. This is in order to maximise use of existing contracts where compliant and where possible, rationalise the number of suppliers reducing back office costs of set up and sense check the need for the new commission.

3.3 **Existing Procurement Procedure Rules**

- 3.3.1 The current PPRs (which are attached as Appendix 2) were last reviewed in full in 2016 and are based on a devolved procurement model and are therefore out of date.
- 3.3.2 In October 2018, a permanent Procurement Manager was appointed as a strategic appointment to transform procurement into a central function. Since this point, the Procurement service has been in a transformational stage moving from a devolved unit to a central team delivering category management which is integral to facilitating how the Council operates and makes decisions regarding spend. The current PPRs are therefore not fit for purpose and do not reflect the new operating model. They are also too lengthy and contain an excess of detail in some areas.

3.4 **Updated Procurement Procedure Rules**

- 3.4.1 The updated PPRs are based on the model of a modern day central Procurement function which is there to add value, deliver savings, and meet the Council's compliance obligations under the PCR 2015.
- 3.4.2 The Rules have been benchmarked and compared with other Council's rules and aim to provide clarity on role and responsibilities and what the procurement function is expected to deliver.
- 3.4.3 The key updates to the PPRs, which are summarised in the table below, also aim to implement some of the Council's priority issues and embed these into purchasing.

Table 1 – Key updates to the PPRs

Key Change	Commentary	Section in PPRs
I. Threshold Procurement engagement	Addition of new threshold; expenditure in excess of £1,500 requires procurement advice	1.3
II. Role of Corporate Procurement Board (CPB)	Addition of the role of the CPB, the introduction of Gateway reports for above threshold activity – (See Appendix 3)	8
III. Tendering thresholds	Updating the thresholds in line with the Procurement Strategy	10
IV. Updated exemption grounds	Addition of two new exemption grounds have been added 3.3.2.5 and 3.3.2.6, and two existing grounds have been removed as incorrect as follows: Goods or materials are proprietary items or are sold only at a fixed price and no satisfactory alternative is available <i>And</i> The work to be executed or the goods or materials supplied constitute an extension or variation permitted under the terms of an existing contract provided the extension or variation is compliant with English or National law.	3.3.2
V. Social value	Addition of Social value and that it should form part of a bidder's commitments at tender stage, be evaluated and therefore tailored to the subject nature of the contract being awarded	13
VI. The Modern Slavery Act	Addition of Modern Slavery following the Council's formal adoption of the Modern Slavery Motion in 2020 and that proportionate, due diligence should be undertaken to certify that council appointed contractors do not participate in modern slavery, either directly or within their supply chains.	14
VII. Climate Change	Addition of Climate Change, the environmental impact must be considered in every procurement, and if relevant evaluated with the emphasis being placed on minimising the carbon footprint	15

4. Consultations

Corporate Governance and Standards Committee

- 4.1 This report was considered by the Corporate Governance and Standards Committee at its meeting held on 22 April 2021. The Committee made the following comments/points/requests:

- In cases where contracts are procured in collaboration with other local authorities where the Council is not the lead authority, a request that not only do we seek assurance that the lead authority acts in compliance with its own contract procedure rules, but also that that authority's rules are up to the same standards as ours.
- Request for an annual report to the Committee on how savings on procurement are being realised and how well the new Procurement Procedure Rules are being adhered to.
- Welcome the addition of the three key changes to the Procurement Procedure Rules: Social Value, Modern Slavery, and Climate Change, but query over the impact of these on the procurement process, and whether it might mean that we require additional resources or attract fewer tenders.
- Request for clarification of the application of the specific permitted exemption referred to in the draft Procurement Procedure Rules where "it is in the overall best interest of the Council".

4.2 The Committee recommended to the Council that the updated Procurement Procedure Rules as set out in Appendix 1 to the report be adopted.

Commentary from Councillor Tim Anderson, Lead Councillor for Resources

- 4.3 Procurement is a crucial work area and needs robust Governance in place. These rules were last fully reviewed in 2016, they therefore need to be updated to align with the Procurement Strategy adopted by the Executive on 26 May 2020.
- 4.4 The report details the key changes in table 1 which is clear, short and to the point. It scrolls through from the Threshold for engagement with Procurement through the role of the Corporate Procurement Board to Modern Slavery and Climate Change.
- 4.5 By adopting the updated Procurement Rules, the Council will commit to delivering a robust approach to Commissioning and Procurement, Compliance will be achieved, significant savings delivered, and commercial opportunity maximised.
- 4.6 The key principles are best value for money, transparency, legality, fairness, sustainability, social value objectives, and equality. Nothing is left to chance. The responsibilities of the Procurement Service and the Corporate Procurement Board are identified in fine detail and are those of Service Leaders.
- 4.7 Cost thresholds are clearly set and with each, the changes to procedures. Those responsible are identified in each category. A seven stage, step by step procurement procedure rules road map leaves no scope for ambiguity.

5. Key Risks

- 5.1 If the current PPRs remain, they are not in line with the adopted Procurement Strategy presenting an overall lack of cohesion and governance to underpin the Strategy.
- 5.2 As the PPRs form part of the Council's Constitution, it is important they are kept up to date as they constitute a key reference point for officers; there is also a legal obligation to ensure compliance with the Council's Constitution so they need to be up to date with current legislation and the Council policies.

6. Financial Implications

- 6.1 Annual Procurement expenditure is currently in the region of £50 million per annum.
- 6.2 As part of the Future Guildford Programme, a procurement savings target of £1.2 million has been earmarked to be delivered annually from 2022.
- 6.3 Savings are reported to the Corporate Procurement Board and noted in terms of being cost avoidance or actual budget savings realised.

7. Legal Implications

- 7.1 The Council when procuring goods, services, and works has a legal duty to comply with the following legislation:
 - The Public Contract Regulations 2015
 - Section 3 of the Local Government Act 1999 'best value' duty.
 - Public Services (Social Value) Act 2012
 - Rule 31 of Local Government Transparency Code 2015.

The changes to the PPRs detailed in this report ensure full compliance with current legislation.

- 7.2 In addition when procuring goods, services and works officers must comply with the PPRs, Financial Procedure Rules and Scheme of Delegation as set out in the Council's Constitution. Reducing the detail in the Rules and making them easier to follow will assist officers in this compliance.

8. Human Resource Implications

- 8.1 It is proposed that the option of introducing a corporate training provision is explored and should consist of an online module covering an introduction to procurement. This should be completed by all new members of staff as part of the Corporate training package added to the induction checklist as a requirement if applicable, and a module in the induction course.

9. Equality and Diversity Implications

- 9.1 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report.

10. Climate Change/Sustainability Implications

- 10.1 As outlined in section 3.4 of this report a specific reference has been made to Climate Change in the PPRs. Procurement will be working closely with the Council's climate change lead in order to fully maximise the opportunity to embed environmental measures into supplier selection and procurement. There are also now standard terms in the template contract terms relating to climate change and sustainability.

11. Summary of Options

- 11.1 Option 1: The PPRs are updated to align with the adopted Procurement Strategy. This is the recommended option.
- 11.2 Option 2: The PPRs are not updated and will therefore not align with the adopted Procurement Strategy causing a lack of cohesion between services and procurement, lack of compliance and missed opportunity. This is not the recommended option.
- 11.3 Option 3: It has been suggested that Procurement provide an annual update report to Committee. This is a further option for consideration.

12. Conclusion

- 12.1 By adopting the updated PPRs, the Council will commit to delivering a robust approach to Commissioning and Procurement. Compliance will be achieved, significant savings achieved, and commercial opportunity maximised.
- 12.2 The PPRs will continue to be reviewed on a regular basis by Legal and Procurement and any substantial changes reported to Selection Council.

13. Background Papers

[Procurement Service Strategy 2020-2023 approved by Executive on 26 May 2020](#)

14. Appendices

Appendix 1: Updated Procurement Procedure Rules

Appendix 2: Existing Procurement Procedure Rules

Appendix 3: Gateway report Template